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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

<p>ROCHDALE INSURANCE COMPANY</p> <p>Plaintiffs,</p> <p>v.</p> <p>SKYLAR DIXON and FELDER & COMPANY, LLC, DBA STILLWATER FISH HOUSE,</p> <p>Defendants.</p>	<p>Cause No: 9:19-cv-00068-DWM</p> <p>DEFENDANT DIXON'S NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF DEFENDANT DIXON'S BRIEF IN REPLY TO ROCHDALE INSURANCE COMPANY'S RESPONSE TO DIXON'S CROSS MOTION FOR SUMMARY JUDGMENT</p>
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Defendant has uncovered three addition sources of authority which it now presents to this Court:

I. *Black's Law Dictionary* (11th Ed. 2019)

On page 444, *Black's Law Dictionary* contains the following passage relevant to this proceeding:

Course of employment. (17c) Events that occur or circumstances that exist as a part of one's employment; esp., the time during which an employee furthers an employer's goals through employer-mandated directives. Cf. Scope of Employment; Zone of Employment.

II. Arthur Larson, *Larson's Workers Compensation Law* (vol. 2 2019)

On page 226, *Larson's Workers Compensation Law* contained the following passage:

For an interesting twist on the usual going and coming rule, see *Johnson v. Stratlaw, Inc.*, 224 Cal. App. 3d 1156, 274 Cal. Rptr. 363 (1990). The plaintiffs, whose 16-year-old son worked at a pizza parlor owned by the defendant corporation, filed this civil action alleging that their son had been killed through the negligence of the employer. Specifically, they alleged that: (1) the defendant negligently ran the affairs of the restaurant in such a manner that the deceased was forced to work from 5:00 P.M. until 2:00 A.M.; (2) such hours were in violation of California Labor Code § 1391, which prohibits a work period in excess of eight hours for a minor; (3) the acts of the defendant caused the deceased to drive home when he was tired and/or exhausted; and (4) the deceased fell asleep at the wheel and was killed. The defendant contended that the action was barred by the exclusivity provisions of the Workers' Compensation Act. The trial court granted summary judgment in favor of the defendant. The Plaintiffs contended on appeal that their action came within the normal "going and coming" rule: because the accident occurred while the deceased was on his way home from work, the exclusiveness defense did

not apply. The court affirmed the summary judgment. It reasoned that because the plaintiff's pleadings contended that the defendants' employment practices created the risk of injury they could not also contend the risk was outside the course and scope of such employment. The deceased was subject to a "special risk" and the tort action could not be maintained.

III. *Johnson v. Stratlaw, Inc.*, 224 Cal. App. 3d 1156 (1990).

Respectfully submitted on May 29, 2020.

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/s/ Michael A. Bliven

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on May 29, 2020, a copy of the foregoing was served upon the following by Mail, E-Mail, Hand-Delivery, Fax, Federal Express, or CM/ECF:

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